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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,555	06/29/2000	Peter H. Seckel	7954/1	6891

7590

07/25/2002

Michael R Friscia
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Roseland, NJ 07068-1776

EXAMINER

LONEY, DONALD J

ART UNIT

PAPER NUMBER

1772

8

DATE MAILED: 07/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-8

Office Action Summary

Application No.

02/606555

Applicant(s)

Seckel

Examiner

D. Loney

Group Art Unit

1772

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on April 12, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-27 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-27 are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper N (s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a domed packing material, classified in class 428, subclass 174.
- II. Claims 7-10, drawn to a method for treating a domed packing material, classified in class 264, subclass 239.
- III. Claims 11-21, drawn to a method of making and packaging a domed packing material, classified in class 53, subclass 203.
- IV. Claims 22-26, drawn to a process of using a domed packaging material, classified in class 493, subclass 374:
- V. Claim 27, drawn to a press, classified in class 425, subclass 363.

The inventions are distinct, each from the other because:

Inventions, II and III, and V are related as process and apparatus for its practice.

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the processes as claimed in Groups II and III can be practiced by another and materially different apparatus such as one which injection molds the domes in the sheets.

Inventions, II and III, and I are related as process of making and product made.

The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process

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(MPEP § 806.05(f)). In the instant case the product as claimed can be formed by a materially different process such as one which injection molds the domed sheet(s).

The examiner is unclear as to whether claim 7 is ^a ~~3~~ use claim or method claim since the last line recites, "utilizing".

Inventions V and I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (MPEP § 806.05(g)). In this case a materially different apparatus such as an injection molding apparatus can make the product as claimed.

Inventions ^I ~~IV~~ and ^{IV} ~~I~~ are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process such as a underlying vapor barrier for carpeting or any process which does not require the separating and disorienting steps.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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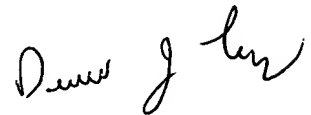
Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

A telephone call was made to Mr. Friscia on June 12, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication should be directed to Donald Loney at telephone number (703) 308-243¹⁶~~38~~.

Loney/LR

July 19, 2002



DONALD J. LONEY
PRIMARY EXAMINER